



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

SEP 19 2006

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James Cousar, Treasurer
Doggett for U.S. Congress
P.O. Box 5843
Austin, TX 78763

RE: MUR 5811
Doggett for U.S. Congress and
James Cousar, in his official
capacity as Treasurer

Dear Mr. Cousar:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting Doggett for U.S. Congress (the "Committee") and you, in your official capacity as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On September 12, 2006, the Commission found reason to believe that the Committee and you, in your official capacity as treasurer, violated 2 U.S.C. §§ 432(c)(5), 434(b)(4)(H)(v) and 434(b)(6)(A), provisions of the Act, and 11 C.F.R. § 104.3(b). Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

We have also enclosed a brief description of the Commission's procedures for handling possible violations of the Act. In addition, please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519. In the meantime, this matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

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If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed Designation of Counsel form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

If you have any questions, please contact Lynn Tran, the attorney assigned to this matter at (202) 694-1650 or (800) 424-9530. We look forward to your response.

Sincerely,



Michael E. Toner
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Doggett for U.S. Congress and MUR: 5811
James Cousar in his official
capacity as Treasurer

I. INTRODUCTION

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2). Based on the available information, there is reason to believe that Doggett for U.S. Congress and James Cousar, in his official capacity as Treasurer, violated 2 U.S.C. §§ 434(b)(4)(H)(v) and (6)(A) and 11 C.F.R. § 104.3(b) by failing to accurately report approximately \$168,402 disbursements from 1999-2004.

II. FACTUAL AND LEGAL ANALYSIS

A. Facts

Doggett for U.S. Congress is the principal campaign committee for Lloyd Doggett, a member of the House of Representatives from Texas' 25th Congressional District. James Cousar is the treasurer of the Committee. Kristi Willis served as a staff member in the Committee's Austin office with responsibility for handling the Committee's accounts until March 2004. Willis worked in Doggett's Austin office from 1998-2004, her last position was as Doggett's district director.

From 1999-2004, Willis made a total of \$168,402 in unauthorized disbursements from Committee accounts – 41 disbursements totaling \$43,231.42 to "Ms. Kristi Willis" and 40 disbursements to "American Express" totaling \$125,170.58. The first unauthorized disbursement

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was made on January 8, 1999 and initially reported on the 1999 Mid-Year Report filed July 9, 1999. The last disbursement was made on March 15, 2004. The money embezzled by Willis from the Committee was spent on ordinary living expenses including house and car payments according to Willis' attorney. *See Tara Copp, Former Doggett Aide Admits to Taking Money from the Campaign*, Austin American-Statesman, Feb. 2, 2006.

Due to Willis misappropriation of Committee funds, the Committee failed to report the \$168,402 in disbursements and reported incorrect balances for the Committee's cash on hand. The Committee first learned of Willis' embezzlement in January 2006, after the campaign of a Texas state candidate found similar discrepancies in Willis' work for that campaign and notified the Committee. Willis admitted to taking money from both campaigns and from another organization, the Capitol Area Democratic Women. *See id.* In the process of reconciling its accounts, the Committee determined that there was a shortfall in the cash on hand and eventually discovered that a number of checks had been removed from the Committee's records and were, therefore, not reported to the Commission.

Willis, who never served as the Committee's treasurer, volunteered to be the campaign bookkeeper and was responsible for recording all checks that came in to the Committee or were paid out by the Committee. When Willis wrote an unauthorized check from the campaign, she would destroy the canceled check and not make an entry in the checkbook ledger for the disbursements she made to herself. Because Willis managed the accounts, she informed Cousar of the account balances. According to the Committee's treasurer, James Cousar, the Committee did not notice Willis' embezzlement because no one double-checked her accounting. No one from the Committee suspected any wrongdoing by Willis since the totals continued to balance each year. *See Copp, supra* at 2-3.

In conjunction with the submission of its 2005 Year End Report on January 31, 2006, the Committee's treasurer, James Cousar, notified the Commission that the Committee included on its 2005 Year End Report a debt of \$166,638.42 due to the Committee from Willis, after Willis admitted to making the unauthorized disbursements. The Committee also submitted an explanatory letter outlining the Committee's knowledge about the unreported disbursements and indicating it would submit updated reports to reflect Willis' unauthorized disbursements. On February 23 and 24, 2006, the Committee filed amendments for all reports filed from the 1999 Mid-Year Report through the 2005 Year End Report disclosing \$168,402 in unauthorized disbursements of Committee funds by Ms. Willis.

The Committee has requested that the Travis County district attorney's office initiate a prosecution of Willis and has entered into a long-term repayment plan with Willis. News reports indicate that the district attorney's office is proceeding with the investigation and prosecution of Willis. *See* Chuck Lindell, *Doggett Seeks Charges Against Former Aide*, Austin American-Statesman, February 18, 2006. As of the April 2006 Quarterly Report, the Committee has received \$40,000 in restitution from Willis. In his January 31, 2006 letter to the Commission, the Committee's treasurer stated that the Committee was instituting new financial controls, including additional safeguards on the use of campaign checks.

B. Analysis

The Act requires the Committee, through its treasurer, was required to account for disbursements and report them to the Commission. 2 U.S.C. §§ 432(c)(5); 434(b)(4)(H)(v); 434(b)(6)(A); 11 C.F.R. § 104.3(b). Although the Committee's reporting errors stem from Willis' embezzlement of Committee funds, the Committee nevertheless violated the Act when it filed the reports that failed to include all disbursements made by the Committee.

Although the unauthorized nature of the underlying embezzlement is a mitigating factor, the Commission must also examine whether a committee implemented reasonable controls that would have prevented the embezzlement and resulting reporting problems. In this matter the Committee had no internal controls in place that would have prevented the embezzlement.

The Committee's treasurer has stated that Willis managed the Committee's finances and informed the treasurer of what the account's balances were and no one checked her math, allowing her embezzlement to continue over a five-year period. There is no indication that the Committee had any procedures in place to either prevent Willis from making the unauthorized disbursements or to detect the unauthorized disbursements once they were made. In fact, despite the substantial amount Willis embezzled from the Committee, Willis' activity was allowed to continue for a significant period of time and was not detected by the Committee until it was alerted by a third party of the manner in which Willis had embezzled funds from a nonfederal committee. Imposition of some safeguards regarding the use of campaign funds may have prevented Willis from engaging in the embezzlement or allowed the Committee to detect the embezzlement and rectify the reporting problems in a more timely fashion.

The Committee is responsible for the reporting violations, and given the lack of internal controls, the mitigation is limited. Accordingly, the Commission found that there is reason to believe that Doggett for U.S. Congress and James Cousar, in his official capacity as Treasurer, violated 2 U.S.C. §§ 432(c)(5), 434(b)(4)(H)(v) and 6(A); 11 C.F.R. § 104.3(b).